

## REMARKS

Claims 1 - 10 remain active in this application. A minor typographical revision is made in claim 3. No new matter has been introduced into the application. Withdrawal of the previous objections and rejections, the indication of allowability of the subject matter of claim 2 and the requirement for formal drawings being held in abeyance are noted with appreciation.

Before proceeding to a discussion of the current ground of rejection, it is respectfully noted that this application was filed on December 21, 1999, and thus has been pending for more than four and one half years. Moreover, this amendment is filed in response to the fourth action (not including the Advisory Action of June 9, 2003) on the merits of this application and that the Examiner has reopened prosecution after the filing of an Appellant's Brief on Appeal. The previous amendment was substantially limited to repeating language already present in the claims, for emphasis, and resulted in the withdrawal of the grounds of rejection asserted following the Appeal Brief. Accordingly, it is respectfully submitted that supervisory review under M.P.E.P. §707.02 is warranted and such review is respectfully requested.

Claims 1 and 3 - 10 have been rejected under 35 U.S.C. §103 as being unpatentable over Heath et al. in view of Baum et al. (newly cited). This ground of rejection is respectfully traversed.

Heath et al. is directed to simulation of an application program for the purpose of developing an interface for the application when the application is later developed. As previously pointed out in this regard, the Abstract of Heath et al. notes that the disclosed method allows the design of the program to be evaluated by users "even before program code for the simulated program is created." Therefore While Heath

et al. may provide tables for such a simulation, those tables are not, in fact, "for an operator system interface" which, at that point in time, does not exist. For the same reason, the definitional tables cannot be provided "as an input to a computing device other than a computing device providing said operator system interface" as the Examiner recognizes and now relies upon the newly cited reference to Baum et al. for such a teaching not only absent from Heath et al. but contrary to the intended function thereof (e.g. to provide for evaluation of a program before the program code is produced). In this regard, it is also respectfully pointed out that it is improper to propose modification of a reference in a manner which would preclude its intended function. See, for example, *In re Gordon*, 221 USPQ 1125 (Fed. Circ., 1984).

Baum et al. clearly does not contain the teachings of suggestions which the Examiner attributes to it and does not answer the claim recitations which Heath et al. fails to answer. Specifically, Baum et al. does not teach or suggest a simulator at all, much less a "simulator program", especially a simulator program run on "a computing device other than a computing device providing said operator system interface" but provides a remote control unit for an instrument having a CRT display. The remote control unit has replaceable legend cards which simulate the display of the instrument to which the remote control unit is connected. Further, no modification of the interface of the instrument is provided of contemplated by Baum et al. but only mimicry of the displays already provided. Therefore Baum et al. cannot provide motivation for any modification of Heath et al. to answer the recitations of the claims much less the teachings or suggestions which are lacking in Heath et al. (which modifications would be improper in any case, as pointed out above) or provide evidence of a level of

ordinary skill in the art which would support the conclusion of obviousness that the Examiner has asserted. Even if the teachings or suggestions of the references now relied upon by the Examiner were properly combinable, there is no teaching or suggestion in either reference of taking operator system interface tables from an operable and existing interface of an application program, inputting the tables into another computing device to simulate the existing interface, modifying the interface, modifying the definitional tables accordingly and reprogramming the operator system interface using the modified tables. Therefore, the combined teachings and suggestions of Heath et al and Baum et al. do not lead to an expectation of success in providing such reprogramming, particularly by use of the method claimed.

In this regard, the Examiner asserts that Heath et al. suggests a need for altering interfaces while a simulation is running and would lead to a search of operator interfaces to find an arrangement for providing such a facility. However, it is abundantly clear that Baum et al. does not do so since the only alteration of display on the remote control device available is the replacement of a legend card to correspond to a display of a part of an interface which exists and, then, not as part of a simulation but in connection with the actual operation of the instrument providing the interface. Therefore, the Examiner continues to fail to address the production of the principal meritorious effects of the invention (e.g. the provision for reprogramming of a processor, possibly connected to a vehicle or other apparatus controlled thereby, to modify an operator system interface without operation of that processor or the apparatus controlled thereby) or the explicit recitations of the claims which support those meritorious effects.

Accordingly, it is respectfully submitted that the Examiner has again failed to make a *prima facie* demonstration of obviousness of any claim in the application. The combined teachings and suggestions of the references relied upon do not answer the subject matter of any claim and, moreover, the references do not contain the teachings or suggestions the Examiner has attributed to them. Baum et al. does not teach or suggest providing definitional tables as an input to a processor different from the processor providing the interface, does not use definitional tables to provide a display (but only the changeable legend cards - note, especially, column 22, line 45), does not modify the interface or definitional tables (but only "emulates" (column 4, line 28) or mimics a portion of the instrument display using changeable legend cards and does not reprogram the interface using modified definitional tables and certainly does not justify yet a further action in this application. The processors of Baum et al. merely monitor changes in state of buttons and prioritize memory functions in regard to such changes of state. Therefore, Baum et al. teaches little, if anything, of relevance to the present invention and certainly does not mitigate the deficiencies of Heath et al. to answer the claims, even in regard to deficiencies admitted by the Examiner. Further, it is respectfully submitted that such an erroneous construction of Baum et al. as the Examiner has made could not be reached except through impermissible hindsight. It follows and is abundantly clear that the claims are clearly and patentably distinguished from the prior art relied upon and the asserted ground of rejection is clearly in error. Therefore, it is respectfully submitted that, upon reconsideration, the asserted ground of rejection cannot be maintained and withdrawal thereof is respectfully requested.

Since all rejections, objections and requirements contained in the outstanding official action have been fully answered and shown to be in error and/or inapplicable to the present claims, it is respectfully submitted that reconsideration is now in order under the provisions of 37 C.F.R. §1.111(b) and such reconsideration is respectfully requested. Upon reconsideration, it is also respectfully submitted that this application is in condition for allowance and such action is therefore respectfully requested.

If an extension of time is required for this response to be considered as being timely filed, a conditional petition is hereby made for such extension of time. Please charge any deficiencies in fees and credit any overpayment of fees to Attorney's Deposit Account No. 50-2041.

Respectfully submitted,



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